

IN THE HIGH COURT OF JUDICATURE,
ANDHRA PRADESH AT HYDERABAD

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT APPEAL NO : 2050 of 2004

Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10/08/2004 in WVMP No.1790 of 2004 in WPMP No.10397 of 2004 in WP NO: 7981 OF 2004 on the file of the High Court.

Between:

M/s. Raja Rajeswari Papaer Mills Ltd. rep by its Director V.C. Janardhan Rao, S/o. Sri Sita Rama Brahman, Aged about 63 years, R/o. Bapulapadu Mandla, Krishna District.

..... APPELLANT

AND

1. The Presiding Officer, Labour Court, Guntur.
2. Yelamanchili Eswar Rao, S/o. Madhava Rao, Major,
R/o. Veleru Post, Bapulapadu Mandal, Krishna District.

.....RESPONDENTS

Counsel for the Appellant: MR.V.HARI HARAN.

Counsel for the Respondent No.1: GP FOR LABOUR.

Counsel for the Respondent No.2: Mr. V. Ajay Kumar.

The Court at the stage of admission made the following:

ORAL JUDGMENT:

(Per the Hon'ble Sri Justice J.Chelameswar)

Aggrieved by the order dated 10th August 2004, the writ petitioner preferred the present appeal.

The order under appeal is an order by which the learned single Judge of this Court declined to vacate the interim order granted on 27-04-2004. The 2nd respondent was dismissed from service of the appellant by order dated 12-01-1994. Aggrieved by the said order, the 2nd respondent-employee raised an industrial dispute in I.D.No.147 of 1994. The Labour Court, Guntur, passed an award dated 29-11-2001, by which it held that the dismissal of the 2nd respondent is not justified and therefore, he is required to be reinstated with back wages. Challenging the said award, the appellant herein filed the abovementioned writ petition.

While admitting the writ petition, by an interim order dated 27-04-2004, the learned single Judge of this Court granted stay of operation of the abovementioned award. Subsequently, the

2nd respondent filed an application in W.V.M.P.No.1790 of 2004 for vacating the said interim stay. On consideration of the vacate petition and having regard to the facts and circumstances of the case, the present order under appeal came to be passed by the learned single Judge, by which he made the interim order dated 27-04-2004 absolute, subject to the condition that the appellant herein pays wages to the 2nd respondent in accordance with

Section 17-B of the Industrial Disputes Act. Aggrieved by the same, the present appeal is filed.

The learned counsel for the appellant submitted that the industry run by the appellant company is not financially sound and, therefore, it is temporarily closed. The other workmen of the appellant company are also not being paid their wages and therefore, the implementation of the interim order of this Court complying with the provisions of Section 17-B of the Industrial Disputes Act in respect of 2nd respondent, would create a separate category of workmen.

We express our inability to accept the submission made by the learned counsel for the appellant. The Industrial Disputes Act does not recognise the '*temporary closure*' of an industry. The expression '*closure*' is defined in Section 2 (cc) of the Act, which reads as follows:

“ [(cc) “closure” means the permanent closing down of a place of employment or part thereof;]”

What Section 2(cc) of the Industrial Disputes Act contemplates is only a 'permanent closure' and 'temporary closure' is neither contemplated nor recognized under the Act. Further, the consequences arising out of a '*permanent closure*' of an industry would result in the rights and obligations, which are prescribed under the Act, but the consequences of a '*temporary closure*' are not provided under the Act.

In the instant case, as a matter of fact, the industry is temporarily closed, but the legality and consequences of such temporary closure is a matter for adjudication by an appropriate authority and not a matter for decision by this Court, that too at the interlocutory stage.

It is submitted by the learned counsel for the appellant that the case of the 2nd respondent for payment of wages under Section 17-B of the Act, would be considered along with other similarly placed persons, in accordance with law.

Having regard to the facts and circumstances, we are of the view that it is not for this Court to adjudicate upon the present issue. We do not find any reason to interfere with the order under appeal. It is open to the learned counsel for the appellant as well as the 2nd respondent to raise such legal pleas in an appropriate forum, if they are so advised.

The appeal is therefore, dismissed at the stage of admission.

J.Chelameswar, J

Gopala Krishna Tamada, J

20th December, 2004
mrk

- To
1. The Presiding Officer, Labour Court, Guntur.
 2. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad.
 3. Two C.D. copies.